

1 **Appendix Three: Discussions of Jury Instructions and Decisionmaking**
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3
4

5 The following materials discuss various aspects of jury instructions and decisionmaking.
6

7 Walter F. Abbott et al., *Jury Research: A Review and Bibliography* (1993).
8

9 American Bar Association Principles for Juries & Jury Trials, SL044 ALI-ABA 653 (2005).
10

11 Martin J. Bourgeois, et al., *Nominal and Interactive Groups: Effects of Preinstruction and*
12 *Deliberations on Decisions and Evidence Recall in Complex Trials*, 80 Journal of Applied
13 Psychology 58 (1995).

14 David C. Brody & John Neiswender, *Judicial Attitudes Towards Jury Reform*, 83 Judicature 298
15 (2000).

16 A. Barry Cappello & G. James Strenio, *Juror Questioning: The Verdict Is In*, 36 JUN Trial 44
17 (2000).

18 Joe S. Cecil et al., *Citizen Comprehension of Difficult Issues: Lessons from Civil Jury Trials*, 40
19 Am. U. L. Rev. 727 (1991).

20 Robert P. Charrow & Veda R. Charrow, *Making Legal Language Understandable: A*
21 *Psycholinguistic Study of Jury Instructions*, 79 Colum. L. Rev. 1306 (1979).

22 Charting a Future for the Civil Jury System: Report from an American Bar Association / Brookings
23 Symposium (1992).

24 The Civil Juror: A Research Project Sponsored by the Roscoe Pound Foundation (1988), in John
25 Guinther, *The Jury in America* (1988).

26 Neil P. Cohen & Daniel R. Cohen, *Jury Reform in Tennessee*, 34 U. Mem. L. Rev. 1 (2003).

27 Neil P. Cohen, *The Timing of Jury Instructions*, 67 Tenn. L. Rev. 681 (2000)

28 Committee on Federal Courts of the New York State Bar Association, *Improving Jury*
29 *Comprehension in Complex Civil Litigation*, 62 St. John's L. Rev. 549 (1988).

30 Donna Cruse & Beverly A. Browne, *Reasoning in a Jury Trial: The Influence of Instructions*, 114
31 J. Gen. Psychol. 129 (1987).

32 B. Michael Dann & George Logan III, *Jury Reform: The Arizona Experience*, 79 Judicature 280

1 (1996).

2

3 B. Michael Dann., "Learning Lessons" and "Speaking Rights": Creating Educated and Democratic
4 Juries, 68 Ind. L.J. 1229 (1993).

5

6 B. Michael Dann et al., *Can Jury Trial Innovations Improve Juror Understanding of DNA*
7 *Evidence?*, Champion, April 27, 2007, at 26.

8

9 Dennis J. Devine et al., *Jury Decision Making*, 7 Psychol. Pub. Pol'y & L. 622 (2001).

10

11 Shari Seidman Diamond, *How Jurors Deal with Expert Testimony and How Judges Can Help*, 16
12 J.L. & Pol'y 47 (2007).

13

14 Shari Seidman Diamond, *Beyond Fantasy and Nightmare: A Portrait of the Jury*, 54 Buff. L. Rev.
15 717 (2006).

16

17 Shari Seidman Diamond et al., *Juror Questions During Trial: A Window into Juror Thinking*, 59
18 Vand. L. Rev. 1927 (2006).

19

20 Shari Seidman Diamond et al., *Juror Discussions During Civil Trials: Studying an Arizona*
21 *Innovation*, 45 Ariz. L. Rev. 1 (2003).

22

23 Shari Seidman Diamond & Neil Vidmar, *Jury Room Ruminations on Forbidden Topics*, 87 Va. L.
24 Rev. 1857 (2001).

25

26 Bethany K. Dumas, *Jury Trials: Lay Jurors, Pattern Jury Instructions, and Comprehension Issues*,
27 67 Tenn. L. Rev. 701 (2000).

28

29 Amiram Elwork et al., *Juridic Decisions: In Ignorance of the Law or in Light of It?*, 1 Law & Hum.
30 Behav. 163 (1977).

31

32 Amiram Elwork et al., Making Jury Instructions Understandable (1982).

33

34 Victor E. Flango, *Would Jurors Do a Better Job if They Could Take Notes?*, 63 Judicature 436
35 (1980).

36

37 Lynne ForsterLee & Irwin A. Horowitz, *The Effects of Jury-Aid Innovations on Juror Performance*
38 *in Complex Civil Trials*, 86 Judicature 184 (2003).

39

40 Lynne ForsterLee & Irwin A. Horowitz, *Enhancing Juror Competence in a Complex Trial*, 11
41 Applied Cognitive Psychology 305 (1997).

42

43 Lynne ForsterLee et al., *Effects of Notetaking on Verdicts and Evidence Processing in a Civil Trial*,

1 18 Law & Hum. Behav. 567 (1994).

2
3 Lynne ForsterLee et al., *Juror Competence in Civil Trials: Effects of Preinstruction and Evidence*
4 *Technicality*, 78 J. Applied Psychol. 14 (1993).

5
6 Paula L. Hannaford et al., *The Timing of Opinion Formation by Jurors in Civil Cases: An*
7 *Empirical Examination*, 67 Tenn. L. Rev. 627, 650 (2000).

8
9 Paula L. Hannaford et al., *Permitting Jury Discussions During Trial: Impact of the Arizona Reform*,

10 24 Law & Hum. Behav. 359 (2000).

11
12 Valerie P. Hans, *Empowering the Active Jury: A Genuine Tort Reform*, 13 Roger Williams U. L.

13 Rev. 39 (2008).

14
15 Valerie P. Hans, *Judges, Juries, and Scientific Evidence*, 16 J.L. & Pol'y 19 (2007).

16
17 Valerie P. Hans, *Inside the Black Box: Comment on Diamond and Vidmar*, 87 Va. L. Rev. 1917

18 (2001).

19
20 Valerie P. Hans & Stephanie Albertson, *Empirical Research and Civil Jury Reform*, 78 Notre Dame

21 L. Rev. 1497 (2003).

22
23 Valerie P. Hans et al., *The Arizona Jury Reform Permitting Civil Jury Trial Discussions: The Views*
24 *of Trial Participants, Judges, and Jurors*, 32 U. Mich. J.L. Reform 349 (1999).

25
26 Larry Heuer & Steven Penrod, *Trial Complexity: A Field Investigation of Its Meaning and Its*
27 *Effects*, 18 Law & Hum. Behav. 29 (1994).

28
29 Larry Heuer & Steven Penrod, *Juror Notetaking and Question Asking During Trials: A National*
30 *Field Experiment*, 18 Law & Hum. Behav. 121 (1994).

31
32 Larry Heuer & Steven D. Penrod, *Instructing Jurors: A Field Experiment with Written and*
33 *Preliminary Instructions*, 13 Law & Hum. Behav. 409 (1989).

34
35 Larry Heuer & Steven Penrod, *Increasing Jurors' Participation in Trials: A Field Experiment with*
36 *Jury Notetaking and Question Asking*, 12 Law & Hum. Behav. 231 (1988).

37
38 Rebecca Hollander-Blumoff & Matthew T. Bodie, *The Effects of Jury Ignorance about Damage*
39 *Caps: The Case of the 1991 Civil Rights Act*, 90 Iowa L. Rev. 1361 (2005).

40
41 Saul M. Kassin & Lawrence S. Wrightsman, *On the Requirements of Proof: The Timing of Judicial*
42 *Instruction and Mock Juror Verdicts*, 37 J. Personality & Social Psychology 1877 (1979).

- 1 J. Clark Kelso, *Final Report of the Blue Ribbon Commission on Jury System Improvement*, 47
2 Hastings L.J. 1433 (1996).
- 3
- 4 Geoffrey P. Kramer & Dorean M. Koenig, *Do Jurors Understand Criminal Jury Instructions?*
5 *Analyzing the Results of the Michigan Juror Comprehension Project*, 23 Univ. Mich. J. L.
6 Reform 401 (1990).
- 7
- 8 Alayna Jehle & Monica K. Miller, *Controversy in the Courtroom: Implications of Allowing Jurors*
9 *to Question Witnesses*, 32 Wm. Mitchell L. Rev. 27 (2005).
- 10
- 11 Richard Lempert, Civil Juries and Complex Cases: Taking Stock after Twelve Years, in *Verdict:*
12 Assessing the Civil Jury System (Robert E. Litan ed. 1993).
- 13
- 14 Joel D. Lieberman & Bruce D. Sales, *What Social Science Teaches Us About the Jury Instruction*
15 *Process*, 3 Psychol. Pub. Pol'y & L. 589 (1997).
- 16
- 17 Nancy S. Marder, *Bringing Jury Instructions into the Twenty-First Century*, 81 Notre Dame L. Rev.
18 449 (2006).
- 19
- 20 Nancy S. Marder, *The Jury Process* (Foundation Press 2005).
- 21
- 22 Nicole L. Mott, *The Current Debate on Juror Questions: "To Ask or Not to Ask, That Is the*
23 *Question,"* 78 Chi.-Kent L. Rev. 1099 (2003).
- 24
- 25 New York State Unified Court System, Final Report of the Committees of the Jury Trial Project
26 (2005), available at <http://www.nyjuryinnovations.org/>.
- 27
- 28 Steven D. Penrod & Larry Heuer, *Tweaking Commonsense: Assessing Aids to Jury Decision*
29 *Making*, 3 Psychol. Pub. Pol'y & L. 259 (1997).
- 30
- 31 Alan Reifman et al., *Real Jurors' Understanding of the Law in Real Cases*, 16 Law & Hum. Behav.
32 539 (1992).
- 33
- 34 David L. Rosenhan et al., *Notetaking Can Aid Juror Recall*, 18 Law & Hum. Behav. 53 (1994).
- 35
- 36 Leonard B. Sand & Steven Alan Reiss, *A Report on Seven Experiments Conducted by District Court*
37 *Judges in the Second Circuit*, 60 N.Y.U. L. Rev. 423 (1985).
- 38
- 39 William W. Schwarzer, *Communication with Juries: Problems and Remedies*, 69 Cal L. Rev. 731
40 (1981).
- 41
- 42 William W. Schwarzer, *Reforming Jury Trials*, 1990 U. Chi. Legal F. 119.
- 43

- 1 Vicki L. Smith, *Prototypes in the Courtroom: Lay Representations of Legal Concepts*, 61 Journal
2 of Personality & Social Psychology 857 (1991).
- 3
- 4 Vicki L. Smith, *Impact of Pretrial Instruction on Jurors' Information Processing and Decision*
5 *Making*, 76 J. Applied Psychol. 220 (1991).
- 6
- 7 Vicki L. Smith, *The Feasibility and Utility of Pretrial Instruction in the Substantive Law: A Survey*
8 *of Judges*, 14 Law & Hum. Behav. 235 (1990).
- 9
- 10 Peter Meijes Tiersma, *Reforming the Language of Jury Instructions*, 22 Hofstra L. Rev. 37 (1993).
- 11
- 12 Neil Vidmar & Valerie P. Hans, American Juries: The Verdict (2007).